D.D. on 14/11/2007

Page 272

Sch No. 48

File No. 30m

Year 1888

Class - B

File No. 333

Collection No.

1988.

39

Mysore Residency

Pros. Serial Nos. 1-9

Subject.

District Supdt of Police and Division Inspect. appointed under section 174 of the Code of Criminal Procedure to hold inquests in the c & m station of Bangalore

Previous References.

Later References.

? 24497

MGIPC—FP—52DCFMis.—(1783)—27-5-25—39,000.

RESIDENT'S OFFICE.

Office Note.

FILE No. 338 OF 1888.

Sl. No. 6

Letter No. 37 dated the 7th April 1896 from the Dy. Supt. of Police, C.O.M. Station, requesting that the two Sub Inspectors for the time being on railway duty may be empowered to hold inquests, in case of emergency, in cases falling under clauses (4), (6) & (C) of sec. 174 Criml. Pro: Code, of deaths occurring within his jurisdiction as Supt. of Railway Police —

Sl. No. 3

2. Notifn. No. $\frac{2268}{338}$ of 5th July 1888 referred to in the letter under reference was issued by the Resident, as Local Govt., under the provisions of sec 174 C.P.C., empowering the Dy. Supt. of Police and Police Inspectors of Divisions to hold investigations in all cases in which the deceased person is a native, and the Dy. Supts of Police in all cases in which the deceased person is a European or a Eurasian. This notification applies only to the C.O.M. station where the Resident has the powers

of a Local Govt for the purposes of the C. P. code. Under para: 2 of sec. 174 of the code every officer in charge of a Police station can hold an investigation unless otherwise directed by any rule prescribed by the Local Govt, or by any general or special order of the District or Sub-divisional Magistrate. As in the C. & M. stations the Resident has, by the above notifn, ordered that only the Dy Supts and the Inspectors of Police in charge of divisions are to hold investigations, Police Officers of any inferior grade are not competent to hold investigations in the C & M. stations. But this rule cannot apply to the Railway line over which the Dy Supt of Railway Police has jurisdiction. for, the Railway line has not been declared to form part of the C & M. Station of Bangalore. All that the notifn issued by the Govt of India says is that the laws for the time being in force in the C & M. Stn of Bangalore shall be deemed to be in force in the lands within Railway jurisdiction.

3. Further the Resident is not the Local Govt for the purposes of the P. code in respect of the land included within

within Railway jurisdiction. According
to the notifn of the Govt of India
(No 507 I dated 6th Febry 1896, published
in the Gazette of India part I p. 85-87)
the Resident has the powers of a
High court under the Civil and
Crimal Pro: codes, of an Inspector
General of Police and Local Govt
as described in Act V of 1861 (the
Police Act). If it were intended
that the Resident should have the
powers of Local Govt under the
code of Crimal Procedure it would
have been so stated in the notifn

put up

4. The Resident cannot, therefore,
issue any order under sec. 174 of
the C. P. C. as to who should hold
investigation into cases of death
occurring within the Railway juris-
diction specified in the notifn of
the Govt. of I. above quoted. The
Dt Magte of the C. P. Dn. who has
been declared to be ~~also~~ Dt Magte also
of the Railway line under the said notifn has, it is submitted
power to issue general or special
orders on the subject, under sec. 174
of the C. P. C. In the absence of
such general or special orders
by the Dt Magte every Officer
in charge of a Police Station has
the power given by the said section

to hold investigations. It is believed that there will be Police stations and Police officers in charge of Police stations along the railway line over which jurisdiction has been conferred on the Supt. of Railway Police. Therefore the Dt. Magte's order also is unnecessary unless it is intended to restrict the power conferred on Police officers in charge of Police stations by sec. 174 and to authorize only Police officers of a superior grade to exercise the power.

5. If approved, the D.S.O. may be informed that the Resident's notice referred to in his (D.S.O's) letter does not apply to the Railway Police and that under sec. 174 of the C.P.C. every officer in charge of a Police station within ~~his~~ his jurisdiction as Supt. of Railway Police can hold investigations in the absence of a general or special order of the Dt. Magte on the subject.

Submitted for orders

6. I approve. Draft for Resident's approval

AHE
18.4.96.

KSE 18/4.

7 Draft submitted for approval

8 AHE 21-4-96.

Issue: no need to send to DO5
KSE 21-4

Sl 8

9 Draft issued vide 1465 dt 21st April 1896

10 Letter No. 45 dated the 14th instant from the District Supdt. of Police, C & M. Station, Bangalore, recommending that rules similar to those issued by the Madras Govt. at Sl. 8/B be issued by the Resident for the conduct of Police investigations under Sec. 174 of the Code of Criminal Procedure, and that he (D.S.P.) be permitted to issue instructions as at Sl. 8/C to the Police Officers under his orders

Sl 3

11 According to existing practice as sanctioned by Resident's notifn No. 2268–3338 of 5th July 1888, in all cases in which the deceased is a European or Eurasian the investigation under sec. 174 is held by the D.S.O. and in all other cases it is held either by the D.S.O. or by a Police Officer not below the grade of an Asst Inspector

Sl 8/B

12. According to the draft rules prepared by the D.S.O. in all cases in which a European or Eurasian is the deceased either the D.S.O. or an European or ~~Eurasian~~

European Inspector of Police would be competent to hold the investigation and in cases in which the deceased is not a European or Eurasian but death has been caused by the act or neglect of another or has occurred under circumstances raising a reasonable suspicion that some other person has committed an offence, the investigation may be held either by the D-S-O. or by some officer of police not below the rank of an Inspector. In all other cases falling under Sec. 174 the officer in charge of a police station would become as provided by the section itself be competent to hold the investi-gation.

13. Another point on which there is no provision in the notification above mentioned and which has been provided for in the draft rules is that the officer in charge of a P. station on receiving information of a death under clauses (a), (b) or (c) of sec. 174 should give intimation thereof in writing to the D.S.O. who has then to decide whether he himself would conduct the investigation or depute some other police officer to do so subject to the rules

This provision of the rules might in some cases tend to delay the investigation. The D-S.P. is also the Supt. of Railway Police. Suppose a case occurs during his absence on the Railway, on duty: his subordinates cannot proceed with the investigation until they receive his orders. Except in this respect the rules seem to be unobjectionable. They do not interfere with the right of a Magistrate empowered in that behalf to hold an inquest.

14. Another question which might be considered in this connection is whether it is necessary to declare who, for the purposes of sec. 174, is the Civil Surgeon or Medical Officer for the station. The Residency Surgeon who is also in charge of Bowring Hospital is the only Civil Surgeon for the station. He has also an Assistant. Lately he refused to examine the body of a military sepoy taken to him by the Police on the ground that the body was that of a military man and should be taken to a military

Surgeon. The error has been already pointed out in a letter to the D.G. Inspector on the subject. As the Residency Surgeon is the only civil Surgeon in the station it does not seem to be necessary to declare him to be the medical officer for the purposes of Sec. 174. Should there be any doubt on the point he and in his absence the assistant Surgeon in charge of Bowring Hospital might be declared to be the medical officer who should examine bodies submitted by the Police

15 With reference to the draft rules the question would arise whether they apply, ipso facto, by reason of H.D. notifn No. 507 I of 6th March 1896, to the Railway lands in Bygone, jurisdiction over which has been ceded to the British Govt, and, if so, whether those lands should be excluded from the operation of the rules

* Sl. 37 of 2. 264 of 88

16. The first para: of Part I of the said notifn declares that "All laws for the time being in force in the Cen-

States

Station of Bangalore shall be deemed to be in force in the aforesaid lands."
Does the word "laws" include rules framed by the Residents as Local Govts?
A rule framed by a Local Govt under a power conferred on it by the C.P. code would seem to have the force of law as much as any portion of the code itself, since it has the sanction of the legislature. Therefore, the rules in question would apply to the Railway lands also unless such lands are expressly excluded from the operation

17. At Sl. 6 the D.S.P. recommends that in cases of the kind referred to in clauses (a), (b) & (c) of sec. 174, occurring on the Railway lands, the Sub. Inspectors of police might be authorized to conduct the necessary investigations, the reason assigned in support of the recommendation being that the Inspector of police has a long range within his jurisdiction and might not be able to get to the body in time. For the reasons mentioned at Sl. 7 the recommendation was not

accepted. Subsequently doubt was entertained as to the correctness of the view taken at Cl. 7, and the Govt. of India who were addressed at Cl. 6 of D. 238 of 1896 concurred with Mr. Brockworth & myself in the opinion that the Resident possesses within the Railway Lands the powers of a Local Govt. under the C. P. C., and in the absence of express provision to the contrary, under all other laws for the purposes of which he has been invested with those powers within the C. & M. Station of Bangalore. The Resident might therefore frame either common rules for both the Station and the Railway Lands or one set of rules for the former and another for the latter place.

19. The D. S. C's proposals may, if approved, be referred to the Dy. Draftsman of the Station for opinion, especially as he also has the power to frame such rules under sec. 174.

Submitted for orders.

A.G. Office 28-4-97

I should like to look at this before finally dispose of it. I have not time now. When I am in my return to Bangalore in mean time action may be taken in accordance with proposal in para 19.

20

D/V. 5/5

21. A draft to the Dt Magistrate of the C.T.M. Station of Bowenstone forwarding copy of Sl. 8 and its enclosures to him for his opinion is submitted, as directed at para: 20 supra, for approval. It is submitted, however, that it would be more convenient if the file itself were sent to the Dt Magistrate to note thereon his views.

AHR 5-5-97. Issue - I want the file myself. If Dt Mte asks for it - it can be sent to him. Return file to me after issuing letter to Dt Mte

Del 7/V

Letter issued. Dis patch

KJ (12/5)

File is semi returned & can be destroyed when copy is received b- S! 9.

Del 14/V.

This file might now be sent to Dt Mte with enquiries suggesting that his copy might be sent in from D a acts on this file at his early convenience.

Del. 29/VI.

Letter copy has been received in file 24 J 97. Del. 29/VI

No 669
198.

Mysore Jud. Commrs Office
Bangalore 27th June 1887

To

The Magistrate of the
Bangalore District.

Sir.

A case in which an unsatisfactory inquest was held by the Town and Cantonment Police on the body of a European who was killed by a Railway train running over him, has been recently brought to my notice, and with the object of providing in future for proper inquests in the Town and Cantonment of Bangalore, the following instructions are issued for the guidance of the Police and the Magistracy.

1. The officer in charge of a Police Station, upon receiving information of the unnatural or sudden death of any person, shall immediately communicate the information to the Cantonment Magistrate and to the Sub Ameen, and shall himself proceed forthwith to the place where the dead body may be.

2. Upon receiving intimation of the death the Suraneen, in all cases where the person

dead is a native, or the Cantonment Magistrate in all cases where he is a European or Eurasian, shall immediately proceed to the place where the dead body may be and hold an Inquest in the manner prescribed in Sec: 135 of the Code of Criminal Procedure. In important cases of natives dying also the Cantonment Magistrate must hold the Inquest instead of the Suraneen as in ordinary cases.

3. The Inquest being thus always held by a Magistrate, the Police Officer present shall aid him in his enquiry, and shall not make a separate enquiry under Section 133 of the said Code. The Magistrate should take such evidence as may be necessary and available regarding the cause and manner of death. He should be aided in the enquiry by two or more respectable inhabitants of the neighbourhood and their opinion as to how when, and by what means the deceased came by his death, should be recorded by the Magistrate and signed by them. The Magistrate's opinion on the same points also should be recorded. All these opinions should be

embodied in a report which should be submitted to the District Magistrate, and contain the following information.

(1). When, where and before whom (naming the Magistrate and the respectable inhabitants of the neighbourhood assisting in the enquiry) the Inquest is held.

(2) Who the deceased is.

(3) Where his body lies and its exact position.

(4) A description of the body, the marks of violence, and the clothing and other articles upon it, and the nature of the weapons and instruments by which the marks of violence were probably caused.

(5) Where, when and by what means the deceased came by his death, and

(6). If his death was occasioned by the criminal act of another who is apparently guilty thereof.

Every such report shall be in the form appended to these rules as far as circumstances may permit.

3. Whenever there is any doubt as to the cause of death, the Magistrate must send the body for Post mortem examination by a competent medical officer, and when

necessary he should cause the Contents of the Stomach or intestines to be analyzed by the Chemical Examiner. In all cases in which the Magistrate considers such a course necessary in the ends of Justice, he may summon a Medical Officer to attend at the Inquest, to view the body, its condition and its position, to make on the spot such examination of the body as may be necessary, and to give his evidence. In all such cases, the Magistrate may award to the Medical witness such fees, not exceeding Rs: 10, as may appear to him to be reasonable.

4. In no case should the Magistrate enquire whether any person dying by his own act was or was not *felo de se*. as such an opinion can result only from enquiry into the state of his mind at the time of his death into which subject the Magistrate is not required to enter by the Law. The word "Suicide" though it strictly applies only to the act of a person killing himself is liable to be understood as applying to a *felo de se* and should not therefore be used in the Magistrate's report made under Rule 2.

A copy of the report should in each case be furnished by the Cantonment Magistrate to the proper Military Authority on application, when the deceased was a person under Military Command.

I have &c.

Sd/ J. D. Gordon.

Jud'l Commissioner

(True Copy.)

H. Pride

Secretary

to Govt

Records

Form of Report.

A Report made on the ... day of ... before C. F. ... Class Magistrate of the Town and Cantonment of Bangalore, on view of the body of A. B. then and there lying de and upon enquiry conducted by the said Magistrate with the aid of G. H. I. J. K. L. & respectable inhabitants of the neighbourho

I the said Magistrate (concurring or differing from the opinions of the said pers or a majority of them as the case may be) find that the death of the said A. B. w caused, on or about the .... day of ... 18 by (here state the cause of death as in following examples)

I (Cases of homicide—) A blow on the h with a stick inflicted on him by C. D. under such circumstance that the act of C. D. was justifi (or accidental) homicide—

A Stab on the head with a kn inflicted on him by C. D. un such circumstances that the a of C. D. was culpable homicid

not amounting to murder (or culpable homicide) amounting to murder or a rash or negligent act not amounting to Culpable Homicide -

II. Cases of accident. — Falling out of a boat into the river Hugli, whereby he was drowned.

A kick from a horse which fractured, his Skull and ruptured blood vessels in his head.

III Cases of death caused by the acts of the deceased. — Shooting himself through the head with a pistol.

Arsenic which he administered to himself.

IV Cases of Sudden death by means unknown. — Disease of the heart.
- Apoplexy.
- Sunstroke -

S/J C. S. Magistrate
G. H. } Punchayetdars
I. J. } agreeing with him.

(Here state any difference of opinion between the Magistrate and any of the persons assisting in the enquiry -)

Sd/ K. L. — Panchayetdars differing from the Magistrate's opinion

Sd/ C. F.
Magistrate.

(True Copy)
P. Pride
Assistant
Records

25/6/85 2

My dear Sedgwicks

Mr. Abdul Rhyman

the 2nd Mate is laid up

with fever. and has

been sick since Thursday

last and is likely to be

unfit for work for a few

days. and may apply

for leave later on

RESIDENT'S OFFICE.

Serial No.

[DRAFT.]—For approval.

No. 2267 3338

Dated 5th July 1888.

Office of the Resident in Mysore

Under the provisions of Section 174 of the Criminal Procedure Code (Act X of 1882) the Resident in Mysore is pleased to prescribe the following rule for the guidance of the Police & the Magistracy, in Supersession of all former rules on the subject so far as they may be inconsistent herewith.—

The investigation specified in the Section quoted above shall be made, in all cases in which the deceased

person is a native, by the
Dt Supt of Police or by
Police Officers not below the
grade of ~~Divisionals~~ Inspectors of Divisions,
and in all cases ~~in~~ where
the deceased person is a
European or Eurasian, by
the Dt Supt of Police

By order

Asst Resident

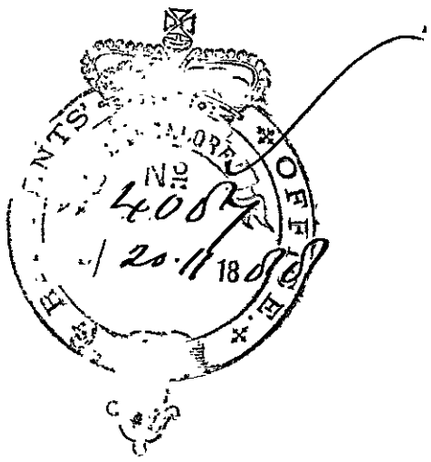
To
The Publishing Govt of India
Calcutta.

No 2269 & 2270
3338

Copy to the Dt Magte Comdt:
Dl Supt of Police comdt:

Rec'd
Under the section quoted
the report of the Inquest
goes to Dist Magt:
who can direct further
further inquiry.
Vide Para 1 C 4
Rules C. & O.
for different
fm the Dl

PSK
28.6.88



POLICE 1888 DEPT.

From E. Stewart Esqr
~~The~~ Dist. Superintendent of Police,
Civil and Military Station,
Bangalore.

To F. E. H. Fredericburne Esqr
Asst to the Resident

Dated 19
Despatched } November 88
Received

ENCLOSURES No.

General No. 646 } 1888.
No. 150

Sir,

With reference to the Resident's Notification of 5th July 1888 prescribing certain rules in Supersession of all former orders on the subject of "Inquests" I have the honor to request to be informed if it is to be understood that the Special Powers of the 2nd Magistrate Mr Abdool Rahiman to hold inquests, is cancelled if so, I am of opinion that it is very desirable that he should be allowed to retain

Those reports will be sent to him instead of to the Dist Mgt.
There seems no necessity to confirm the 2nd Mag's inquests
We may point out that the Dist Mag has power to order the 2nd Mag's inquests under S 174
FRW 22/11/88

A
I think the answer must be in the affirmative. The wording of the notification no 2268/338, Ex. in para 2, the words "shall be made" seem to point to that intention.

I see no necessity for altering the notification or giving special powers to the 2nd Magistrate.
FRW 23-11-88

Draft subt for approval B PTO.

PSK
23/11/88

retain that power, as in doubtful cases it is better that the Magistrate should hold inquests, and not the Police; the District Magistrate if he was consulted [illegible] on the point concurs in my views. I should wish that the Resident be informed [illegible] the 2nd Magistrate retains the power of holding inquests.

I have the honor to be
Sir
Your Most obed't Serv't

Wm. Hudleston

Dt Supdt of Police
Chittagong

B. In doubtful cases where it is desirable that a magistrate sh- inquests, the 2nd Magte has power under the Code (Sec 174, last par to hold inquests. As such exceptional cases must be rare in a small place the C & M station, it is a question whether it is [illegible] necessary to empower the 2nd Magte in that behalf, especially now that the 2nd duties have been added to — Subd for favor of order.

75 K
22-11-88.

The police on receiving information of sudden deaths send their report to the Dist Mag. Who is the Mag. empowered to hold inquests. The police then hold their enquiry (this power has recently been declared to the police vide para 5 July) the Dist'd can hold an inquest if he chooses himself or order the 2nd Mag. to hold it. If the 2nd Mag is formally empowered to hold it

Serial No.

RESIDENT'S OFFICE.

[DRAFT.]—For approval.

No. 4025
3368.

To

Dated 29th Novr 1888.

The District Supt. of Police
C & M. Station.

Sir,

In reply to your letter No 646/150 dated the 17th November 1888, regarding the power of the 2d Magistrate to hold inquests, I am directed to inform you that the Offg Resident sees no necessity either for altering his notification of the 5th July 1888 or for specially empowering the 2d Magistrate to hold inquests, it being open to the District Magistrate to order

order the 2nd Magistrate to hold inquests in Special cases under Section 174 Criminal Procedure Code.

I have &c.

Asst. Resident.

No. 4026/3338.

Copy forwarded to the District Magistrate civil and Military Station for information and guidance.

Asst. Resident.

PSK
23/11/88

POLICE 1896 DEPT.

FROM H. F. Wilkieson Esquire

~~THE~~ DIST. SUPERINTENDENT OF POLICE,
CIVIL AND MILITARY STATION,
BANGALORE.

TO The First Assistant to the Resident in Mysore Bangalore.

DATED 11-4-1896

DESPATCHED 11-4-96

RECEIVED

General No. 37 / No. } 1896-97

ENCLOSURE—No.

Rec'd by me on 15-4-96 JAR

13-4

Sir,

I have the honor to bring to your notice that under the terms of the Resident's Notification No: 2268/338 of 5th July 1888 that the Railway Inspector can hold inquests in cases of persons dying in his jurisdiction under clauses a. b. and c. of Section 174 of the Criminal Procedure Code, but as this Officer has now a very large charge and may not be able to get to the body in time I solicit the Resident's sanction to empower the two Sub-Inspectors for the time being on Railway duty to hold inquests in case of emergency.

investigations

I have the honor to be
Sir
Your most obedient Servant
H. F. Wilkieson
District Superintendent of Police

333/88

RESIDENT'S OFFICE.

Serial No.

[DRAFT].—For approval.

No. 1465

Dated 21 April 1896.

To

The District Supt. of Police,
C. & M. Station,
Bangalore

Sir,

In reply to your letter No. 37 dated the 11th April 1896, requesting that, in case of emergency, the two Assistant Inspectors for the time being on railway duty under you, may be invested with powers to hold inquests in cases falling under clauses (a), (b) and (c) of sec. 174 of the Code of Criml. Procedure, when necessary, I am directed to inform you that the Resident's notification No. 2268/338 of 5th July 1888 quoted in your letter does not apply to the land over which you exercise jurisdiction as Supt. of Railway Police.

The Resident has not been declared to be the Local Govt. in respect of the said land for the purposes of the

Crim. Pro: code. No powers can, therefore, be conferred by him under sec. 174 of the Code. But I am to point out that under that section every officer in charge of a police station has the power to hold investigations in the class of cases specified therein, in the absence of a general or special order of the D.t Magistrate to the contrary.

I have &c

21-4.

1st Asst to the Resident

POLICE 1897 DEPT

FROM E. Wheeler, Esquire

THE DIST. SUPDT. OF POLICE,

CIVIL AND MILITARY STATION

BANGALO

To The First Assistant to
Resident in Myso

Dated 12th April 1897

Despatched 14.

Received

General No. 45 } 1897.
No.

ENCLOSURE—No. 3

Sir,

On the 25-2-97 Mr. Sa
Bartels wrote in his diary
"Sir
"Inquests on Europeans
"to be held by the District
"If the District Superintend
"absent on the Railway or
"elsewhere, would it be co
"for me to hold necessary
"any European who may di
"under the circumstances
"in 174 C. P. C.? I ask be
"during Mr. Wilkinson's ti
"had written orders to c
"his executive work durin
"absence, and had to ho
"inquest on one Mrs Leg
"who committed Suicide
"Chemists Shop.
2 Up to date, as reg

16/4

× to be kept & returned.